

# LYNCHBURG CITY COUNCIL

## Agenda Item Summary

MEETING DATE: **October 14, 2003**

AGENDA ITEM NO.: 12

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – 2002-2004 Wards Ferry Road**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Mark and Joyce Hartless are petitioning for a Conditional Use Permit at 2002-2004 Wards Ferry Road for the construction of 47 townhomes for sale in an R-3, Medium Density, Two-Family Residential District. The Planning Division recommended approval of the CUP because:

- Petition agrees with the *Comprehensive Plan* in that the area is designated Medium Density Residential, which recommends development of small-lot detached housing, duplexes, and townhomes at densities of up to 12 units per acre.
- Petition agrees with the Zoning Ordinance in that townhomes are allowed in an R-3, Medium Density Two-Family Residential District with approval of a CUP from City Council.

PRIOR ACTION(S):

September 24, 2003: Planning Division recommended approval of the CUP

Planning Commission recommended approval (6-1) of the CUP with the following conditions:

1. The property will be developed in substantial compliance with the revised site plan prepared by Acres of Virginia, Inc., and approved by the Planning Division.
2. The right turn lane shown on the original site plan leading from Wards Ferry Road into the development will be included on the revised site plan and will be constructed.
3. Sight distances at the front entrance will be approved by the City Traffic Engineer before the revised site plan can be approved.
4. To accommodate sight distance requirements, placement of street trees will require setback to be approved by the City's Urban Forester.
5. The buildings will meet all building code requirements as determined by the Inspections Division.
6. A subdivision plat vacating all interior lot lines will be submitted and approved prior to approval of the final site plan.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253

Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan

REVIEWED BY: lkp

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO MARK AND JOYCE HARTLESS FOR USE OF THE PROPERTY AT 2002-2004 WARDS FERRY ROAD TO CONSTRUCT TOWNHOMES, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Mark and Joyce Hartless for a Conditional Use Permit at 2002-2004 Wards Ferry Road to construct forty-seven (47) townhomes be, and the same is hereby, approved, subject to the following conditions:

1. The property will be developed in substantial compliance with the revised site plan prepared by Acres of Virginia, Inc. and approved by the Planning Division.
2. The right turn lane shown on the original site plan leading from Wards Ferry Road into the development will be included on the revised site plan and will be constructed.
3. Sight distances at the front entrance will be approved by the City Traffic Engineer before the revised site plan can be approved.
4. To accommodate sight distance requirements, placement of street trees will require setback to be approved by the City's Urban Forester.
5. The buildings will meet all building code requirements as determined by the Inspections Division.
6. A subdivision plat vacating all interior lot lines will be submitted and approved prior to approval of the final site plan.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

170L

The Department of Community Planning & Development  
City Hall, Lynchburg, VA 24504 434-847-1508

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** September 24, 2003  
**Re:** **CONDITIONAL USE PERMIT (CUP): Fountain Gate Townhomes, 2002-2004 Wards Ferry Road**

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**I. PETITIONER**

Mark C. and Joyce H. Hartless, 316 Breezewood Drive, Lynchburg, VA 24504

**Representative:** Tommy Brooks, Sr., Acres of Virginia, Inc., 404 Clay Street, Lynchburg, VA 24504

**II. LOCATION**

The subject property is a tract of about 4.323 acres at 2002-2004 Wards Ferry Road across from Aaron Place.

**Property Owners:** Mark C. and Joyce H. Hartless, 316 Breezewood Drive, Lynchburg, VA 24504

**III. PURPOSE**

The purpose of this petition is to allow construction of 47 townhomes for sale.

**IV. SUMMARY**

- Petition agrees with the Comprehensive Plan in that the area is designated Medium Density Residential, which recommends development of small-lot single family detached housing, duplexes, and townhomes at densities of up to 12 units per acre.
- Petition agrees with the Zoning Ordinance in that townhomes are allowed in an R-3, Medium Density Two-Family Residential District with approval of a CUP from City Council.
- Petition proposes the construction of 47 townhomes for sale, along with parking and recreational facilities.

**The Planning Division recommends approval of the CUP petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends Medium Density Residential development in this area. Medium Density Residential includes small-lot single family detached housing, duplexes, and townhomes at densities of up to 12 units per acre. Where neighborhoods already exist, infill development should be at a compatible density and housing type. The proposed Fountain Gate townhomes will be compatible with the adjoining small lot single family detached development on Water Gate Drive.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-3, Medium Density Two-Family Residential zoning was established in 1978 with the adoption of the current *Zoning Ordinance*. Townhomes may be developed in an R-3 district with a CUP from City Council.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed townhomes and related facilities.
4. **Surrounding Area.** There have been no items requiring City Council approval in the immediate area in the last several years.
5. **Site Description.** The subject property is bounded to the north by a small-lot single family home development, to the east, west, and south by scattered single-family homes and some vacant land.
6. **Proposed Use of Property.** The purpose of the CUP is to allow construction of 47 townhomes for sale, along with parking and recreational facilities.
7. **Traffic and Parking.** The City Traffic Engineer has requested construction of a right turn lane from Wards Road into the property and has expressed concern about the sight lines for drivers using the front entrance. Otherwise, traffic impacts are expected to be minimal.
8. **Storm Water Management.** The City's Environmental Planner has requested, prior to the Planning Commission hearing, a drainage area map based on current conditions of the site. This project will also

require submission of an Erosion and Sediment Control/Stormwater Management Plan and Narrative, submission of a Stormwater System Maintenance Agreement for the project, and provision for the use of Best Management Practices ("BMPs") for water quality management.

9. **Impact.** Development of these 47 townhomes, along with parking and recreational facilities, will not have any negative visual impacts on the surrounding neighborhood. The design and layout of the buildings is acceptable.

Location of the tot lot needs to be moved away from the lot line of the nearest townhomes.

10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on September 2, 2003. Numerous comments have been submitted to the project proponent and further comments have been reserved until a revised site plan has been received.
11. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.

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## VI. PLANNING DIVISION RECOMMENDATION

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Mark C. and Joyce H. Hartless for a conditional use permit at 2002-2004 Wards Ferry Road for the construction of 47 townhomes subject to the following conditions:**

1. **The property will be developed in substantial compliance with the revised site plan prepared by Acres of Virginia, Inc. and approved by the Planning Division.**
2. **The right turn lane shown on the original site plan leading from Wards Ferry Road into the development will be included on the revised site plan and will be constructed.**
3. **Sight distances at the front entrance will be approved by the City Traffic Engineer before the revised site plan can be approved.**
4. **To accommodate sight distance requirements, placement of street trees will require setback to be approved by the City's Urban Forester.**
5. **The buildings will meet all building code requirements as determined by the Inspections Division.**
6. **A subdivision plat vacating all interior lot lines will be submitted and approved prior to approval of the final site plan.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. Doug Dejarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineering  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Karl Cooler, Building Commissioner  
Ms. Judith C. Wiegand, Senior Planner  
Mr. Arthur L. Tolley, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Mr. Thomas Brooks, Sr., Representative

## VII. ATTACHMENTS

### 1. **Vicinity Zoning Pattern**

(see attached map)

### 2. **Vicinity Proposed Land Use**

(see attached map)

### 3. **Site Plan**

(see attached site plans)

### 4. **Narrative**

(see attached narrative)

PLANNING COMMISSION MINUTES  
SEPTEMBER 24, 2003

THESE MINUTES HAVE NOT BEEN REVIEWED NOR APPROVED BY THE COMMISSION.

Petition of Mark and Joyce Hartless, for a conditional use permit at 2002, 2004 Wards Ferry Road to allow the construction of townhouse units for sale in an R-3, Two-Family Residential District.

Tommy Brooks, Sr. represented the petitioners, Mark and Joyce Hartless. Mr. Brooks explained that the Hartless' had recently purchased the property at the intersection of Wards Ferry Road and Aaron Place with the intention of building 19 duplexes for a total of 38 rental units. He said even though the duplexes would be allowed by right, due to the topography of the site, the owners decided to build townhomes instead, which required a CUP. Mr. Brooks said the units would be stick built with a brick and vinyl exterior. He said the units would sell for approximately \$135,000 depending on upgrades, and the homeowners would be part of an association with home owner fees being used for upkeep of the green space and landscaping, and pavement repairs. He explained that the owners were hoping to complete the project in approximately two years, depending on the sales of the units. Mr. Brooks said they had addressed the TRC's concerns regarding the installation of sidewalks, meeting the City's parking requirements, providing parking and driveway lanes large enough for emergency vehicle access with an adequate turn radius, and the installation of a turn land on Wards Ferry Road. He explained that the three existing ponds on site would handle the stormwater prior to it being discharged into adequate channels. He added that there would be no disturbance of land in the 100-year flood zone.

Mr. Larry Simons, 100 Aaron Place, Unit 3 represented the nine-unit townhome association across from the proposed development. He explained that he and his neighbors were opposed to the petition due to the traffic. Mr. Simons said they were under the impression that the entrance to the site would be directly across from the entrance to Aaron Place and they were concerned with the double blind curve at that entrance. He added that traffic got worse when Wards Crossing was built and continues to increase as new stores and restaurants are opened.

Mr. Brooks gave a rebuttal, and confirmed that the entrance to the proposed development was directly across from Aaron Place, which was where the City Traffic Engineer requested that it be. He explained that according to the Virginia Department of Transportation there could be as many as 470 car trips per day in and out of the site. He said VDOT calculates 10 trips per day per car, which is an exaggerated number. Mr. Brooks reiterated that they were installing a left turn land onto site as well as a deceleration lane.

Commissioner Moore asked if the detention swell was to collect water and direct it to the detention pond. He asked if there were other houses on the site.

Mr. Brooks responded that the detention swell was to collect water and keep it from draining onto Wards Ferry Road and into the City's storm sewer. He added that the water would not overflow onto the neighboring property. Mr. Brooks said there were currently two houses on the subject property and both would be demolished. He said he was not sure if there was a structure on the adjacent property, and added that the petitioner had spoken to the adjoining property owner concerning purchasing the property.

Commissioner Echols voiced his concern that there was only one means of ingress/egress onto the site, and asked how emergency personnel would enter the area if the entrance was blocked. He asked about the density of the units per acre and how many people could possibly reside in the development.

Mr. Brooks said the entrance to the site was developed according to the requests of the City's Traffic Engineer, and would meet the requirements for the necessary sight distance. He added that having two means of ingress/egress onto Wards Ferry Road would double the risk of traffic accidents. He explained that the blind entrance would be eliminated with the installation of the turn lane and with the clearing of the lot next door. Mr. Brooks said there could be as many as six people living in each unit, but added that an average number would probably be approximately 125 residents living at this development.

Mr. Martin said there could be 10.9 units per acres, so this development is in line with what is allowed in the Zoning Ordinance.

Mr. Simons gave a rebuttal. He said Mr. Brooks' points were well taken concerning access and problems that could potentially be created as a result of the new development. Mr. Simons reaffirmed his neighbor's concerns.

Commissioner Wilkins said the acceleration and deceleration lanes help ease the concern about increased traffic along that section of Wards Ferry Road.

Commissioner Worthington noted that the sight distances had been approved by the City Traffic Engineer.

Commissioner Moore said his concern was with the increased traffic near the high school. He suggested that caution or blinking lights be installed in a couple of locations in that area.

Mr. Gerry Harter, City Traffic Engineer, said the immediate concern at the proposed location was the sight problem, which will be taken care of by installing turn lanes and clearing the subject property as well as the adjoining property. He added that during the morning and afternoon peak hours the intersection could be challenging. Mr. Harter noted that the City was investigating the possibility of adding flashing signs and markings by the school

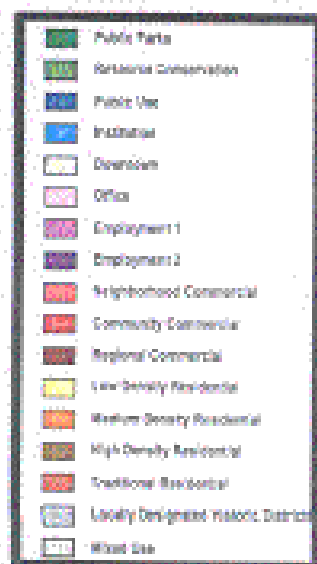
Chair Dahlgren said the City had taken every precaution possible to make this development safe, and he said, the developer had been cooperative to the City's request. He said he would support the petition.

After discussion Commissioner Worthington made the following motion, which was seconded by Commissioner Moore and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of Mark C. and Joyce H. Hartless for a conditional use permit at 2002-2004 Wards Ferry Road for the construction of 47 townhomes subject to the following conditions:

1. The property will be developed in substantial compliance with the revised site plan prepared by Acres of Virginia, Inc. and approved by the Planning Division.
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6. A subdivision plat vacating all interior lot lines will be submitted and approved prior to approval of the final site plan."

AYES:	Dahlgren, Flint, Moore, Pulliam Wilkins, Worthington	6
NOES:	Echols	1
ABSTENTIONS:		0



# **FOUNTAIN GATE TOWNHOMES 2002, 2004 WARDS FERRY RD LAND USE PLAN**





# FOUNTAIN GATE TOWNHOMES

#2002.2004 Wards Ferry Road  
Vol. Map # 247-01-023/04,25  
Conditional Use Permit Request  
Petitioner: Mark & Joyce Hartless

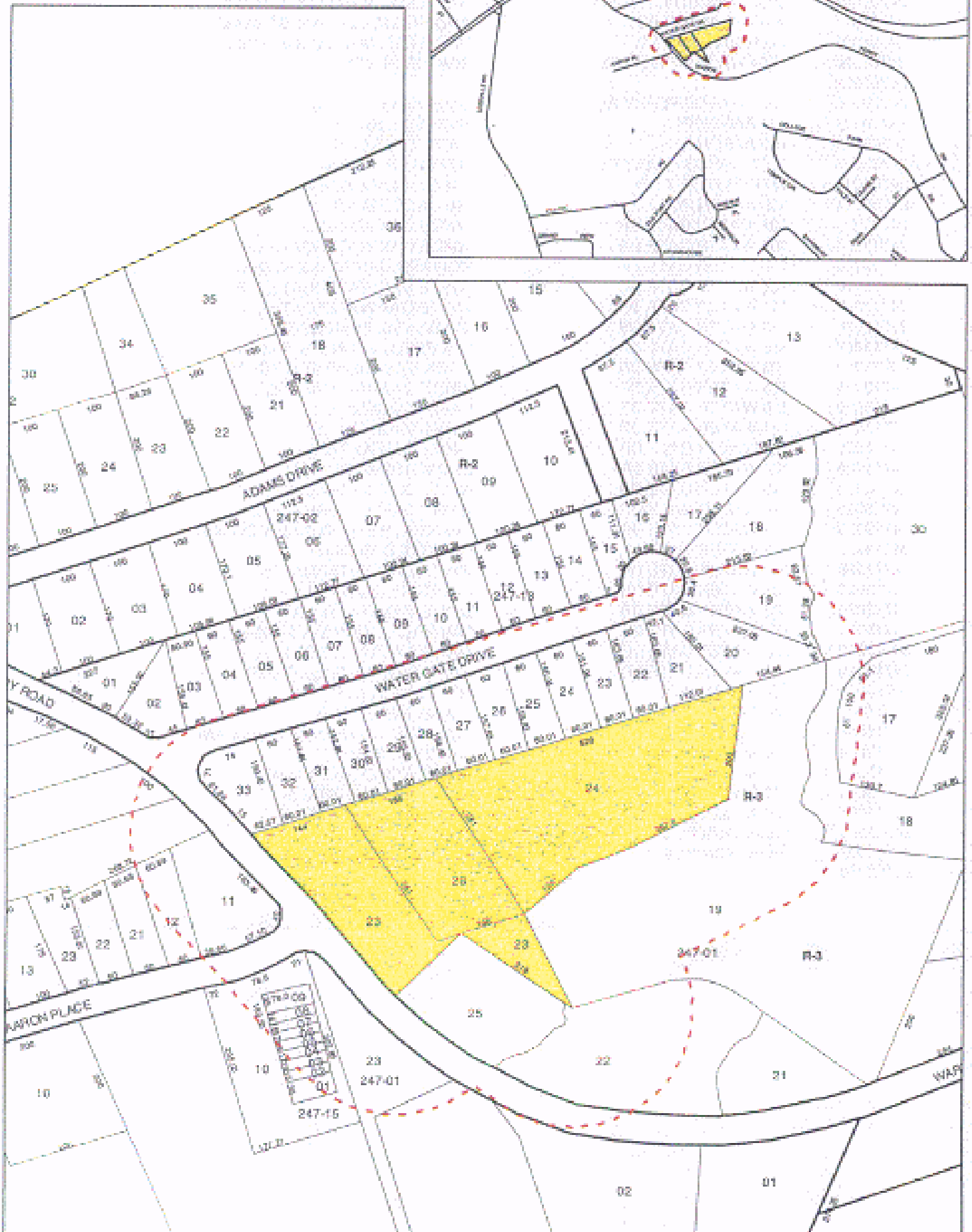
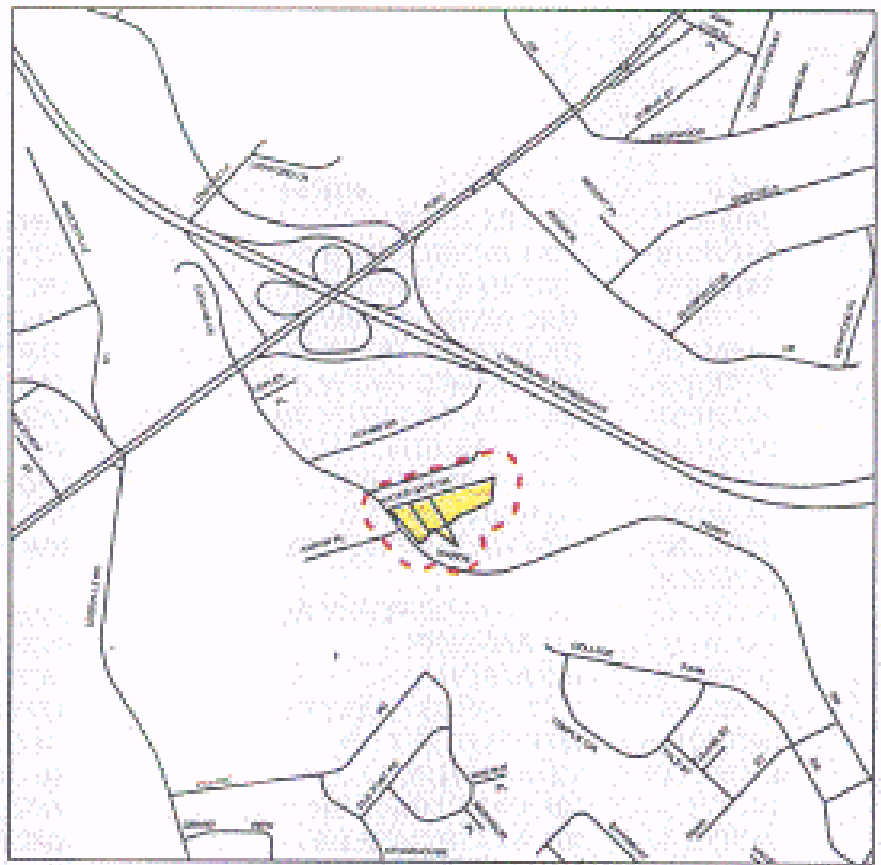
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property



200 ft Radius



OldID	Location	Owner
24701017	1908 BILLS DR	TUNE, CATHERINE V
24701018	1834 WARDS FERRY RD	HOLLOWAY, SANDRA W
24701019	1902 WARDS FERRY RD	ANDERSON, LUCY F
24701022	1920 WARDS FERRY RD	ANDERSON, ST CLAIR & LOIS
24701023	2004 WARDS FERRY RD	HARTLESS, MARK C & JOYCE H
24701023	2004 WARDS FERRY RD	HARTLESS, MARK C & JOYCE H
24701023	2004 WARDS FERRY RD	HARTLESS, MARK C & JOYCE H
24701024	2002 WARDS FERRY RD	HARTLESS, MARK C & JOYCE H
24701025	WARDS FERRY RD	ANDERSON, LOIS W & ST CLAIR
24701026	WARDS FERRY RD	HARTLESS, MARK C & JOYCE H
24701030	1904 WARDS FERRY RD	SIMONSEN, ERIC S
24703002		
24703005	1931 WARDS FERRY RD	CALLOWAY, ELDRIDGE & LUCY J
24703011	101 AARON PL	HARTSOE, RAY R
24703012	103 AARON PL	HARTSOE, RAY R
24703016	2007 WARDS FERRY RD	MCKENZIE, WOODROW L & MARCIA G
24703017	WARDS FERRY RD	EARLY, CLARENCE S
24703021	105 AARON PL	HARTSOE, RAY R
24713003	103 WATER GATE DR	WHITE OAK WATERGATE LP
24713004	105 WATER GATE DR	WHITE OAK WATERGATE LP
24713005	107 WATER GATE DR	HOWARD, JAMES M & HUDSON, CHRISTY L
24713006	109 WATER GATE DR	WHITE OAK WATERGATE; L P
24713007	111 WATER GATE DR	WHITE OAK WATERGATE L P
24713008	113 WATER GATE DR	CUMMINGS, FRANKLIN H
24713009	115 WATER GATE DR	CAMPBELL, JOHN B & JULIE M
24713018	133 WATER GATE DR	COOK MANAGEMENT COMPANY INC
24713019	128 WATER GATE DR	WHITE OAK WATERGATE; L P
24713020	126 WATER GATE DR	HARRIS, DONNA B &
24713021	124 WATER GATE DR	COOK FAMILY L P II
24713022	122 WATER GATE DR	WHITE OAK WATERGATE; L P
24713023	120 WATER GATE DR	BLANKENSHIP, SHANN L
24713024	118 WATER GATE DR	WHITE OAK WATERGATE; L P
24713025	116 WATER GATE DR	WHITE OAK WATERGATE; L P
24713026	114 WATER GATE DR	PANNELL, HERMAN A SR & DONNA
24713027	112 WATER GATE DR	FRASIER, C MICHAEL
24713028	110 WATER GATE DR	WHITE OAK WATERGATE; L P
24713029	108 WATER GATE DR	COULSON, JEAN P III &
24713030	106 WATER GATE DR	WHITE OAK WATERGATE L P
24713031	104 WATER GATE DR	CAMPBELL, JOHN B & JULIE M
24713032	102 WATER GATE DR	WHITE OAK WATERGATE, L P
24713033	100 WATER GATE DR	WHITE OAK WATERGATE LP
24715001	100 AARON PL 1	WYATT, DONNA P
24715002	100 AARON PL 2	GLASS, REBECCA B
24715003	100 AARON PL 3	SYMONDS, LAWRENCE H SR & ANN M
24715004	100 AARON PL 4	HARRIS, SHERYL F
24715005	100 AARON PL 5	CLASS, ROBERT I & DIANE A
24715006	100 AARON PL 6	CLIFTON, KATHERINE E
24715007	100 AARON PL 7	BRUNSON, ELIZABETH G
24715008	100 AARON PL 8	COOK, LISA R
24715009	100 AARON PL 9	ALJERMAT INVESTMENTS
24715010		

***ACRES OF VIRGINIA, INC.***  
***SURVEYORS~ENGINEERS~PLANNERS & SOIL CONSULTANTS***  
***404 CLAY STREET***  
***LYNCHBURG, VIRGINIA 24504***  
***PHONE: (434) 528-4674***  
***FAX: (434) 845-1048***

**RECEIVED**  
**SEP 10 2003**  
**COMMUNITY PLANNING  
& DEVELOPMENT**

Narrative to Site Plan dated 8-18-03, revised 9-08-03, for a Conditional Use Permit (Fountain Gate Town Homes, Wards Ferry Road)

Re: Items letter dated 9-5-03 from Environmental Planner, Kent L. White

- Item #1. The Site Plan addresses three (3) locations that will serve as sediment and detention areas. The Site Plan also shows the existing topographic features of the land. The existing features will change based upon a final engineered grading plan. The final engineering is contingent upon the conditional use permit being approved by city council.
- Item #2. Upon final approval of the conditional use permit, construction plans will be prepared by an engineer. These plans will address all concerned stormwater issues. All stormwater will be managed (treated on site) prior to discharge into an adequate channel.
- Item #3. No activity will occur within the 100-year flood zone. The applicant understands that a conditional use permit would be required from the city and that the Department of Environmental Quality and the Army Corps of Engineers would need to be consulted.